

PS1330.15 COMMUTATION OF SENTENCE, PETITION FOR



Program Statement

OPI: CPD
NUMBER: 1330.15
DATE: 8/23/2001
SUBJECT: Commutation of
Sentence, Petition for

1. **[PURPOSE AND SCOPE §571.40.** An inmate may file a petition for commutation of sentence in accordance with the provisions of 28 CFR Part 1.

a. An inmate may request from the inmate's case manager the appropriate forms (and instructions) for filing a petition for commutation of sentence.

b. When specifically requested by the U.S. Pardon Attorney, the Director, Bureau of Prisons will forward a recommendation on the inmate's petition for commutation of sentence.]

Article II, Section 2 of the U.S. Constitution empowers the President of the United States to grant Executive Clemency, including pardon, commutation (reduction) of sentence, remission of time and reprieve. Commutation of the term of a prison sentence is considered only in the most exceptional circumstances.

Rules governing petitions for Executive Clemency such as commutation of sentence, are published in 28 CFR Part 1 (§1.1-1.10).

In accordance with 28 CFR 1.3, a petition for commutation of sentence, including remission of fine, should be filed only if no other form of relief is available, such as from a court of the United States, U.S. Parole Commission, or upon motions under 18 U.S.C. §§ 3582(c) and 4205(g), or if unusual circumstances exist, such as:

- ! critical illness,
- ! severity of sentence,

[Bracketed Bold - Rules]

Regular Type - Implementing Information

- ! ineligibility for parole, or
- ! meritorious service rendered by the petitioner.

2. **SUMMARY OF CHANGES.** This revision:

- ! Requires inmates to submit petitions through their Wardens if they wish expedited consideration by the U.S. Pardon Attorney.
- ! Clarifies what documents staff must send to the U.S. Pardon Attorney with an inmate's petition for commutation of sentence.
- ! Establishes procedures by which the inmate's petition is receipted and further processed.

3. **PROGRAM OBJECTIVE.** The expected result of this program is:

All inmates will have access to the U.S. Pardon Attorney to request a petition for commutation of sentence.

4. **DIRECTIVES AFFECTED**

a. **Directive Rescinded**

PS 1330.14 Petition for Commutation of Sentence
(11/24/97)

b. **Directives Referenced**

PS 5803.07 Progress Reports (2/18/98)
PS 6000.05 Health Services Manual (10/28/97)

c. Rules cited in this Program Statement are contained in 28 CFR 571.40-41.

5. **STANDARDS REFERENCED.** None

6. **PRETRIAL/HOLDOVER/DETAINEE PROCEDURES.** The procedures contained in this Program Statement apply only to sentenced inmates.

7. **[PROCEDURES §571.41]**

a. Staff shall suggest that an inmate who wishes to submit a petition for commutation of sentence do so through the Warden to the U.S. Pardon Attorney. This procedure allows institution staff to forward with the application the necessary supplemental information (for example, sentencing information, presentence

report, progress report, pertinent medical records if the petition involves the inmate's health, etc.). Except as provided in paragraph (b) of this section, no Bureau of Prisons recommendation is to be forwarded with the package of material submitted to the U.S. Pardon Attorney.]

To expedite the Pardon Attorney's consideration of an inmate's petition for commutation of sentence, the inmate **must** send the petition through the Warden to the U.S. Pardon Attorney.

Staff may not refuse to process an inmate's petition for commutation of sentence, even when it appears that the inmate is not eligible. When an inmate submits the petition for commutation of sentence, the Case Manager will document the petition's receipt with a complete entry on the Inmate Activity Record in the Inmate Central File.

Once the petition is received, the Case Manager will have 30 calendar days to compile the required documents and route for the Warden's signature.

When referring an inmate's petition for commutation of sentence, staff **must** include:

- Petition for Commutation of Sentence (Form OPA-6);
- Pre-sentence Investigation Report (if available);
- Judgment in a Criminal Case; and,
- The inmate's most recent **already existing** Progress Report (**staff need not create or update a Progress Report**);

If available, staff should also include any other pertinent, documented information.

The Pardon Attorney may later request the following, if necessary:

- All pertinent medical records if the petition involves the inmate's health; and
- An updated Progress Report.

In the event of a medical emergency certified by the physician at the institution where the inmate is confined, staff must expedite the petition at all levels. In such cases, the documents cited above may be transmitted to the U.S. Pardon Attorney's office via BOPNet Mail ID or Facsimile (Commercial (202) 616-6069). The telephone number is (202) 616-6070.

The U.S. Pardon Attorney may delay and/or return petitions received without proper documentation pending the remaining documentation's receipt.

When the U.S. Pardon Attorney needs **additional** information, a request will be forwarded directly to the Warden of the institution housing the inmate, with a copy to the Assistant Director, Correctional Programs Division, Central Office, Washington DC. In these cases, the Warden must ensure the requested documents are forwarded to the U.S. Pardon Attorney within 15 working days and a copy of the transmittal memorandum provided to the Assistant Director, Correctional Programs Division.

[b. When specifically requested by the U.S. Pardon Attorney, the Director, Bureau of Prisons shall submit a recommendation on the petition. Prior to making a recommendation, the Director may request comments from the Warden at the institution where the inmate is confined. Upon review of those comments, the Director will forward a recommendation on the petition to the U.S. Pardon Attorney.]

(1) The Director, through the Assistant Director, Correctional Programs Division, will contact (ordinarily via BOPNet) the Warden for comments, with an information copy sent to the Regional Director.

(2) The Warden must submit a written response to the Assistant Director, Correctional Programs Division (Attention: Administrator, Correctional Programs Branch) within 10 days of receiving the request, and forward an information copy to the Regional Director.

(3) The Director, upon review of all available information, forwards the Bureau's recommendation to the U.S. Pardon Attorney, with a copy to the Warden and Regional Director.

The Director's recommendation is ordinarily one of several reviewed by the U.S. Pardon Attorney and others concerned with the disposition of Clemency Petitions. The Attorney General, or designee, will provide a recommendation to the President on each petition for commutation of sentence.

[c. When a petition for commutation of sentence is granted by the President of the United States, the U.S. Pardon Attorney will forward the original of the signed and sealed warrant of clemency evidencing the President's action to the Warden at the detaining

institution, with a copy to the Director, Bureau of Prisons. The Warden shall deliver the original warrant to the affected inmate, and obtain a signed receipt for return to the U.S. Pardon Attorney. The Warden shall take such action as is indicated in the warrant of clemency.]

The Warden is to forward a copy of the warrant of clemency to the Regional Director.

[(1) If a petition for commutation of sentence is granted, institutional staff shall recalculate the inmate's sentence in accordance with the terms of the commutation order.

(2) If the commutation grants parole eligibility, the inmate is to be placed on the appropriate parole docket.

d. When a petition for commutation of sentence is denied, the U.S. Pardon Attorney ordinarily notifies the Warden, requesting that the Warden notify the inmate of the denial.]

The Warden is to forward a copy of the denial to the Regional Director.

8. **FORMS.** The Case Management Coordinator or Executive Assistant may obtain the necessary forms from the:

U.S. Pardon Attorney
500 First Street NW, 4th Floor
Washington DC 20530.

These forms shall also be available on BOPDOCS.

/s/
Kathleen Hawk Sawyer
Director